

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Entergy Services, Inc.

Docket Nos. ER06-799-000,  
ER06-799-001

ORDER ACCEPTING LARGE GENERATOR INTERCONNECTION AGREEMENT  
AND GENERATOR IMBALANCE AGREEMENT

(Issued May 30, 2006)

1. In this order, the Commission accepts an unexecuted Large Generator Interconnection Agreement (Operating Agreement) between Entergy Arkansas, Inc. (Entergy Arkansas) and Arkansas Electric Cooperative Corporation (the Cooperative) and an unexecuted Generator Imbalance Agreement (GIA) between Entergy Services, Inc. (Entergy), acting as agent for Entergy Arkansas, and the Cooperative.

**I. Background**

2. On March 29, 2006, as amended on March 31, 2006, Entergy, acting as agent for the Entergy Operating Companies,<sup>1</sup> filed the unexecuted Operating Agreement and the GIA. The agreements govern the interconnection of the 560 MW gas-fired Wrightsville

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<sup>1</sup> The Entergy Operating Companies include Entergy Arkansas, Entergy Gulf States, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

Generation Station (Wrightsville Facility), located in Wrightsville, Pulaski County, Arkansas, to the Entergy system.<sup>2</sup>

3. According to Entergy, the Wrightsville Facility was previously owned by Wrightsville Power Facility, LLC (WPF) and other subsidiaries of Mirant Corporation and was in commercial operation from July 1, 2002 through September 2003. Entergy states that the Wrightsville Facility was shut down in October 2003. The Cooperative then purchased the Wrightsville Facility.<sup>3</sup>

4. Entergy states that Entergy Transmission Business Unit, which operates the Entergy Transmission System, notified the Cooperative that restarting the Wrightsville Facility would require a new interconnection agreement between the Cooperative and Entergy Arkansas or the assignment to the Cooperative of the existing interconnection agreement between Entergy Arkansas and WPF. Entergy states that it is making this filing to ensure that the Wrightsville Facility is operated in a manner consistent with the reliability of the Entergy Transmission System and to satisfy the Commission's requirement for a standard Large Generator Interconnection Agreement under Order

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<sup>2</sup> Entergy states that the agreements are unexecuted due to ongoing discussions between Entergy Arkansas and the Cooperative over the status of the Wrightsville Facility. Apparently, the Cooperative wants the Wrightsville Facility to be qualified as a "Cooperative Resource" and to be eligible for joint dispatch arrangements under the Power Coordination, Interchange and Transmission Service Agreement (Pooling and Transmission Agreement), originally executed by the Cooperative and Arkansas Power & Light Company (Entergy Arkansas's predecessor) on June 27, 1997. However, according to Entergy, Entergy Arkansas notified the Cooperative that it has significant concerns regarding such a designation for the Wrightsville. Since that time, Entergy Arkansas and the Cooperative have been trying to resolve the status of the Wrightsville Facility. This disagreement over the status of the Wrightsville Facility is not an issue here. While the Cooperative has protested Entergy's filing, it raises other concerns in its protest and states that it is not asserting its rights under the Pooling and Transmission Agreement in this docket but may do so in another future proceeding.

<sup>3</sup> The Commission, by delegated order, authorized the sale of the Wrightsville Facility to the Cooperative. *See Wrightsville Power Facility, L.L.C.*, 112 FERC ¶ 62,153 (2005).

No. 2003.<sup>4</sup> Entergy states that the Cooperative asked Entergy to file an unexecuted Operating Agreement with a May 1, 2006 effective date for the Commission's review. Entergy states that the Cooperative requested the unexecuted filing to ensure that it could meet its own deadline of May 1, 2006 for resuming commercial operation of the Wrightsville Facility.

5. Entergy states that this Operating Agreement does not conform to Entergy's *pro forma* Operating Agreement in two ways. First, section 5.17 of this Operating Agreement states that the Cooperative has made no payments or property transfers to Entergy associated with the physical interconnection of the Wrightsville Facility. Entergy explains that the Wrightsville Facility is already interconnected to the Entergy Arkansas transmission system and that all presently necessary interconnection-related facilities or upgrades have been constructed and financed under the agreement between Entergy Arkansas and WPF. Second, Entergy states that Appendices A and B of the Operating Agreement clarify that all necessary interconnection facilities, network upgrades and distribution upgrades have already been constructed and financed under the interconnection agreement between Entergy Arkansas and WPF.

6. On March 31, 2006, Entergy filed an amendment to the March 29, 2006 filing. Entergy states that the Cooperative requested that Entergy move the effective date of the

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<sup>4</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005). With regard to Entergy's statement that it is making this filing to satisfy the Commission's requirement for a standard Large Generator Interconnection Agreement under Order No. 2003, or that modifying the Operating Agreement may erode the standardization of the *pro forma* Large Generator Interconnection Agreement, we note that the Wrightsville Facility is already physically interconnected to Entergy system. Thus, the agreement between the entities need only reflect the post-interconnection obligations and responsibilities of the parties; it is more in the nature of an "interconnection operating agreement." To avoid confusion, we will refer to the agreement as the Operating Agreement, though Entergy calls it a Large Generator Interconnection Agreement. Order No. 2003 does not require that the *pro forma* Large Generator Interconnection Agreement be used.

agreements back to April 1, 2006 in order to accommodate the Cooperative's testing of the Wrightsville Facility. In both the March 29, 2006 filing and the March 31, 2006 amendment, Entergy requests waiver of the sixty-day notice requirement.

## **II. Notices of Filings and Responsive Pleadings**

7. Notice of Entergy's March 29, 2006 filing was published in the *Federal Register*, 71 Fed. Reg. 19,493 (2006), with interventions and protests due on or before April 19, 2006. Notice of Entergy's March 31, 2006 amendment was published in the *Federal Register*, 71 Fed. Reg. 19,720 (2006), with interventions and protests due on or before April 21, 2006. On April 19, 2006, WPF and the Cooperative filed motions to intervene and comments. On April 21, 2006, Entergy Arkansas filed a motion to intervene. On May 5, 2006, Entergy filed an answer to the Cooperative's protest.

8. WPF notes that it remains a party to its interconnection and operating agreement with Entergy Arkansas for the Wrightsville Facility.<sup>5</sup> WPF requests that the Commission clarify that nothing in the Operating Agreement or GIA in the instant filing affects the obligation of Entergy Arkansas to provide transmission credits to WPF and that the pending Operating Agreement does not terminate the existing interconnection agreement between Entergy Arkansas and WPF.

9. The Cooperative states that it requested Entergy to amend section 11.3 of the Operating Agreement to specify that the Cooperative did not fund the upgrades identified in Appendix A of the Operating Agreement. Section 11.3, covering Network Upgrades and Distribution Upgrades, states that the Transmission Provider or Transmission Owner shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A. Section 11.3 states further that the "Interconnection Customer shall be responsible for all costs related to Distribution Upgrades." In addition, section 11.3 states that unless the "Transmission Provider or Transmission Owner elects to fund the capital for the Network Upgrades, they [Network Upgrades] shall be solely funded by Interconnection Customer."

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<sup>5</sup> In the transmittal letter to the March 29, 2006 filing, Entergy states that the Commission, when it approved the interconnection agreement and GIA between Entergy Arkansas and WPF, determined that WPF was entitled to approximately \$26 million in transmission credits associated with the construction of facilities for the Wrightsville Facility. Entergy states that the agreements in the instant filing will govern the interconnection and operation of the Wrightsville Facility by the Cooperative but that WPF's interconnection agreement and GIA will remain in effect to provide a contractual mechanism for Entergy to provide the transmission credits to WPF.

10. The Cooperative states that it asked Entergy to add the phrase “installed subsequent to the effective date of this Operating Agreement” to modify “Distribution Upgrades” and “Network Upgrades” in the sentences from section 11.3 quoted above. However, Entergy did not do so. While the Cooperative acknowledges that Entergy modified Appendix A of the Operating Agreement to state that no new Network Upgrades are required, the Cooperative is concerned about unintended consequences that could arise from not changing the language in section 11.3 to reflect the fact that it is not responsible for any upgrades to date. Therefore, the Cooperative seeks clarification that it will not be held responsible for the costs of any Distribution or Network Upgrades unless such upgrades are constructed or financed after the effective date of the Operating Agreement.

11. Additionally, the Cooperative points out that the Operating Agreement does not specify the standard of review for modifications to the agreement. The Cooperative notes in an ongoing rulemaking,<sup>6</sup> the Commission is considering using the higher “public interest” standard to review proposed modifications to agreements unless the agreements specify that the lower “just and reasonable” standard is to be used. The Cooperative had requested that Entergy include language in the Operating Agreement section 30.11 specifying that the just and reasonable standard would be used. The Cooperative argues that it would be unfair and unlawful to impose the public interest standard upon a party to an unexecuted agreement that has requested that it not be subjected to that standard.

12. In its answer, Entergy states that the Cooperative’s proposed revision to section 11.3 is unnecessary because Appendix A of the Operating Agreement already indicates that no Distribution Upgrades were constructed for the Wrightsville Facility’s initial interconnection to Entergy Arkansas’s system. With respect to Network Upgrades, Entergy states that Appendices A and B of the Operating Agreement make it clear that all necessary facilities were constructed and financed under the predecessor agreement between Entergy Arkansas and WPF. Entergy argues that the Operating Agreement has been modified to take into account the Cooperative’s concerns and that there is no danger of the Cooperative being held responsible for costs associated with those facilities.

13. Entergy argues that the revision to section 11.3 proposed by the Cooperative would undermine the standardized nature of the *pro forma* Large Generator Interconnection Agreement, as the provision that the Cooperative wants changed contains

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<sup>6</sup> See Notice of Proposed Rulemaking, *Standard of Review for Modifications to Jurisdictional Agreements*, 113 FERC ¶ 61,317 (2005) (Standard of Review Rulemaking).

the standard language from Order No. 2003. Such provisions should be modified only when absolutely necessary. Entergy states that the appendices of the Operating Agreement are the right place to take into account customer-specific circumstances, particularly those involving upgrades. The parties to the Operating Agreement agreed to modifications to the appendices to the Operating Agreement and those modifications are sufficient to address the Cooperative's concerns.

14. Entergy states that it has no objection to the Cooperative's proposed revision adopting the just and reasonable standard, but that modifying the Operating Agreement would be premature and might erode the standardization of the *pro forma* Large Generator Interconnection Agreement. In the Standard of Review Rulemaking, the issue of how to trigger the just and reasonable standard in a *pro forma* Large Generator Interconnection Agreement is pending before the Commission. Entergy proposes that the just and reasonable standard be applied to the Operating Agreement in a manner consistent with any final rule issued in that docket. It will file modifications to the Operating Agreement to incorporate the just and reasonable standard if necessary after the Commission adopts a final rule. Entergy argues that this approach will ensure that the just and reasonable standard will be applied to the Cooperative's Operating Agreement.

### **III. Discussion**

#### **A. Procedural Matters**

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's answer because it has provided information that has assisted us in our decision-making process.

#### **B. The Proposed Operating Agreement and GIA**

17. We find the agreements to be just and reasonable and accept Entergy's filing, as discussed below.

18. The Cooperative seeks clarification that it will not be held responsible for the costs of any Distribution or Network Upgrades unless such upgrades are constructed or financed after the effective date of the Operating Agreement. We agree with Entergy that the appendices to the Operating Agreement clearly state that no distribution upgrades have been constructed and that all network upgrades were constructed under the previous

agreement between Entergy Arkansas and WPF. No further clarification is necessary.

19. The Cooperative also wants the Operating Agreement to specify that the just and reasonable standard will be used to review any modifications to the Operating Agreement. While the Cooperative expresses concerns that the Standard of Review Rulemaking may require the higher public interest standard of review, Entergy's pledge to file a revision to the Operating Agreement to incorporate the just and reasonable standard, if needed when the rule becomes final, should allay this concern. We will thus reject the Cooperative's protest on this point.

20. We agree with WPF that its interconnection agreement with Entergy Arkansas remains in effect for purposes of WPF receiving transmission credits and that its interconnection agreement with Entergy Arkansas is unaffected by the agreements in the instant filing.

22. Finally, we find good cause exists to grant Entergy's request for waiver of the 60-day notice requirement to permit an effective date of April 1, 2006, as requested.<sup>7</sup>

The Commission orders:

(A) Entergy's proposed unexecuted Operating Agreement and GIA with the Cooperative are hereby accepted.

(B) Waiver of the 60-day prior notice is granted as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>7</sup> *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).